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In re

Robin Washington Hamilton,

Debtor.

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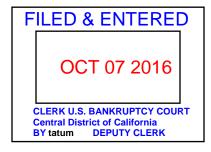
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ORDER NOT FOR PUBLICATION UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

Case No. 2:11-bk-53420-RK

Chapter 7

ORDER ON DEBTOR'S MOTION TO REOPEN CHAPTER 7 CASE AND VACATING THE OCTOBER 11, 2016 2:30 P.M. HEARING

Pending before the court is the motion ("Motion") to reopen the above-captioned Chapter 7 bankruptcy case of Debtor Robin Washington Hamilton ("Debtor"), ECF 14, filed on July 27, 2016 through his counsel of record, Joseph Pittera, for the purpose of filing a motion to remove lien on real property. The Motion was noticed for hearing on October 11, 2016 at 2:30 p.m. No opposition was filed to the Motion.

The court, having reviewed the Motion, determines that pursuant to Local Bankruptcy Rule 5010-1(e) and 9013-1(q), a hearing on the Motion is not required, nor 1 2

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27 28 necessary, takes the Motion under submission, vacates the October 11, 2016 hearing on the Motion as improvidently noticed by Debtor, and rules as follows on the Motion.

The court determines that the Motion to reopen should be granted to allow the Debtor "to administer assets, to accord relied to the debtor, or for other cause" under 11 U.S.C. § 350(b) and Federal Rule of Bankruptcy Procedure 5010 to allow Debtor to file a motion to remove lien on real property, which as stated in the moving papers, may benefit the estate. *See also,* 4 March, Ahart and Shapiro, *California Practice Guide: Bankruptcy*, ¶ 23:151 at 23-19 (2015), *citing, inter alia, In re Menk*, 241 B.R. 896, 913 (9th Cr. BAP 1999)("[T]he reopening of a closed bankruptcy case is a ministerial act that functions primarily to enable the file to be managed by the clerk as an active matter and that, by itself, lacks independent legal significant and determines nothing with respect to the merits of the case.").

Accordingly, IT IS HEREBY ORDERED as follows:

- Debtor's Motion to reopen his above-captioned Chapter 7 bankruptcy case is GRANTED pursuant to 11 U.S.C. § 350(b), Federal Rule of Bankruptcy Procedure 5010, and Local Bankruptcy Rules 5010-1 and 9013-1(q), and the bankruptcy case is ordered reopened.
- The hearing on the Motion to reopen set for October 11, 2016 at 2:30 p.m. is VACATED and TAKEN OFF CALENDAR. No appearances are required at the October 11, 2016 at 2:30 p.m. hearing on the Motion.
- 3. Although the court grants the Motion, the court observes that Debtor's counsel, Joseph Pittera, who filed the Motion on Debtor's behalf, acted contrary to Local Bankruptcy Rule 5010-1(e) by calendaring a hearing date for the Motion without prior court authorization, which expressly provides that, "A motion to reopen may be ruled on without a hearing pursuant to LBR 9013-1(q). The movant must not calendar a hearing date nor will a hearing be held on the motion, unless otherwise ordered by the court." The court admonishes Joseph

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Main Document

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